

PL-11

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-193518

DLG 01444

DATE: April 26, 1979

MATTER OF: Interaction Research Institute, Inc.

[Protest of Contract Awarded By Marine Corps On Sole-Source Basis]

DIGEST:

Option should be exercised only if it is most advantageous method of fulfilling the Government's needs. GAO will not object to agency's limited exercise of option necessary to properly complete work performed under basic contract where agency's action is shown to be reasonable.

DLG 01445 -

Interaction Research Institute, Inc. (IRI) protests a decision by the United States Marine Corps (Corps) to exercise the option under contract No. M00027-77-C-0078, awarded on a sole-source basis to Institute for International Research, Inc. (IIR), on September 30, 1977. IRI maintains that the competitive bidding process should have been introduced into the procurement, in lieu of perpetuating, through exercise of the option, the noncompetitive selection procedures initially employed by the Corps.

The contract was awarded for the continued development and implementation of the Corps' Leadership (Human Relations) Program. The program's objectives are to promote, with heavy emphasis on leadership, harmonious racial and cultural relations within the Corps, primarily through the development of various human relations training modules. Contracts for the human relations program have been awarded, at approximately two year intervals, on a sole source basis to IRI and its predecessor in interest since April 1970.

The contract is divided into two phases, Increments I and II. Increment I is the basic contract which expired on September 30, 1978.

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Increment II is the unpriced option presently under protest. Concerning the Increment II option, the agency states:

"The Contracting Officer determined with the concurrence of the Marine Corps' Sole Source Review Board prior to the establishment of the contract in October 1977 that the procurement of Increments I and II would be sole source. In view of the questions raised [by the protester], the sole source status of 'Increment II' of this program was reconsidered and the conclusion was that 'Increment II' of the training module development program must be acquired from IIR to fully use the material and data developed to date. It should be noted that, while 'Increment II', as described by the option provisions in the contract, anticipated the development of initial and experimental modules as well as final modules and updates to previously developed modules, the actual procurement of 'Increment II' will acquire only final modules and updates to previously developed modules. No new work will be initiated that will require future sole source effort to continue or complete."

Thus, as a result of the protest, only that portion of Increment II (approximately one-third) which refines and completes existing training modules will be exercised. The Corps explains that the raw data base necessary for the completion of the existing modules are primarily the interviews and field research IIR has already performed under the contract. Thus, the Corps states that the development and completion of the final modules depend "in large measure [on] the ideas, experience and knowledge in the minds of the people who performed the basic work."

While many of the protester's arguments seem to be directed toward the propriety of the initial sole-source awards these matters will not be considered because they are untimely under our Bid Protest

Procedures (4 C.F.R. Part 20 (1978)). The Procedures state that protests must be filed not later than 10 days after the basis of protest is or should have been known. 4 C.F.R. § 20.2(b)(2).

The propriety of an agency's exercising an option to extend an existing contract instead of conducting a new competition must be determined in light of the applicable provisions of the Defense Acquisition Regulation (DAR) which state that options should be exercised only if it is the most advantageous method of fulfilling the Government's needs. DAR § 1-1505(c) (iii) (January 31, 1977).

It is undisputed that the Corps will exercise the option only for the limited purpose of refining and completing existing training modules. [Since it appears that the incumbent alone has the thorough familiarity with the underlying raw data necessary for proper completion of the work, ^{it was} we conclude that the Corps has acted reasonably in exercising the option to complete to this limited extent.

a portion of the second phase of the 2 day symposium the existing 2 weeks of conducting a new competition
However, we note that in its report to our Office the Corps states that "any contractor assistance necessary to support future development of the Leadership Program will be competitively bid." We recommend that the Corps adhere to this position in any future procurements of this type.

Protest denied.

R. F. K. 11m.
Deputy Comptroller General
of the United States